

STEVEN B. WOLFSON  
 District Attorney  
**CIVIL DIVISION**  
 State Bar No. 001565  
 By: Scott Davis  
 Deputy District Attorney  
 State Bar No. 010019  
 500 South Grand Central Pkwy., 5<sup>th</sup> Floor  
 Las Vegas, Nevada 89155-2215  
 (702) 455-4761  
 Fax (702) 382-5178  
 E-Mail: Scott.Davis@ClarkCountyDA.com  
*Attorneys for Defendant Clark County*

UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA

STACY LUXENBERG,

Plaintiff,

vs.

CLARK COUNTY, NEVADA, ex rel, Clark  
 County Justice Court,

Defendant.

Case No:2:16-cv-001762-JAD-CWH

**REQUEST FOR EXEMPTION FROM ENE ATTENDANCE REQUIREMENT**

TO: UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA,  
 Honorable Cam Ferenbach, United States Magistrate Judge;

TO: STACY LUXENBERG, Plaintiff;

TO: ANDREW L. REMPFHER, Esq., Her Attorney:

Defendant CLARK COUNTY through its attorney STEVEN B. WOLFSON, District  
 Attorney, by Scott Davis, Deputy District Attorney, in accordance with the Order Scheduling  
 Early Neutral Evaluation Session (ECF No. 6), requests exemption to the attendance  
 requirements set forth therein as follows:

The authority of the Court to schedule an Early Neutral Evaluation ("ENE") is found  
 in LR 16-6. The issue of representation by a public body defendant at a settlement  
 conference was addressed by the Advisory Committee to the Federal of Rules of Civil

1 Procedure in 1993. The Advisory Committee noted with regard to ordering the appearance of  
 2 a governmental entity, as follows:

3 Particularly in litigation in which governmental agencies or large  
 4 amounts of money are involved, there may be no one with on-  
 5 the-spot settlement authority, and the most that should be  
 6 expected is **access to a person who would have a major role in**  
 7 **submitting a recommendation to the body** or board with  
 8 ultimate decision-making authority. The selection of the  
 9 appropriate representative should ordinarily be left to the party  
 10 and its counsel.

11 Advisory Committee Note to 1993 Amendments to Fed. R. Civ. P. 16(c)(9) (emphasis  
 12 added.)

13 In this case, a seven-member Board of County Commissioners for Clark County has  
 14 the ultimate authority to settle the case. However, this Defendant requests exception from  
 15 attendance by the Board of County Commissioners pursuant to LR 16-6(e). Les Lee Shell,  
 16 the Risk Manager for Clark County is the appropriate representative and will attend the  
 17 ENE.

#### 18 CONCLUSION

19 Based upon the foregoing, Defendant requests an exception to the attendance  
 20 requirements for the ENE to allow the attendance of Les Lee Shell, as the authorized  
 21 representative of Defendant.

22 DATED this 3<sup>rd</sup> day of October, 2016.

STEVEN B. WOLFSON  
 DISTRICT ATTORNEY

By: 

Scott Davis  
 Deputy District Attorney  
 State Bar No. 004434  
 500 South Grand Central Pkwy. 5<sup>th</sup> Floor  
 P. O. Box 552215  
 Las Vegas, Nevada 89155-2215  
 Attorney for Defendant  
 CLARK COUNTY

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

DATED: 10-4-2016

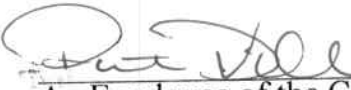
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**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Office of the Clark County District Attorney and that on this 3<sup>rd</sup> day of October, 2016, I served a true and correct copy of the foregoing REQUEST FOR EXEMPTION FROM ENE ATTENDANCE REQUIREMENT through CM/ECF Electronic Filing system of the United States District Court for the District of Nevada (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

Andrew L. Rempfer, Esq  
Jennifer D. Golanics, Esq.  
Law Offices of Steven J. Parsons  
10091 Park Run, #200  
Las Vegas, NV 89145-8868  
*Attorney for Plaintiff*  
andrew@sjplawyer.com  
Jennifer@sjplawyer.com

  
An Employee of the Clark County District  
Attorney's Office – Civil Division